

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO**

| | | |
|---|---|---------------------|
| SANDUSKY WELLNESS CENTER, LLC, |) | |
| an Ohio limited liability company, |) | |
| individually and as the representative of a |) | |
| class of similarly-situated persons, |) | |
| |) | |
| Plaintiff, |) | No. 12-CV-2257-DAK |
| |) | |
| v. |) | Judge David A. Katz |
| |) | |
| WAGNER WELLNESS INC., ROBERT |) | |
| WAGNER, and JOHN DOES 1-10, |) | |
| |) | |
| Defendants. |) | |

FINAL APPROVAL ORDER AND JUDGMENT

The parties' proposed class action settlement coming before the Court for a fairness hearing on February 9, 2016, at 10:30 a.m. in in Room 224, of the United States District Court for the Northern District of Ohio, James M. Ashley and Thomas W.L. Ashley United States Courthouse, 1716 Spielbusch Avenue, Toledo, Ohio, at which all persons were given an opportunity to be heard, the Court considering the submissions of the parties, including Plaintiff's Motion for Final Approval of Class Action Settlement, the statements of counsel, and the fairness of the settlement's terms, **IT IS HEREBY ORDERED THAT:**

1. This Court grants final approval of the Settlement Agreement, including, but not limited to, the releases therein, and finds that the settlement is in all respects fair, reasonable, and adequate, and in the best interests of all those affected by it. Any timely objections that were filed have been considered and are overruled. Accordingly, this Final Judgment and Order binds all members of the Class who did not opt out.

2. This Court has jurisdiction over plaintiff, Sandusky Wellness Center, LLC (“Plaintiff”), the members of the Class, defendants Wagner Wellness, Inc. and Robert Wagner (“Defendants”), and the claims asserted in this lawsuit.

3. This Court finds that the parties entered into the Settlement Agreement in good faith, following arm’s-length negotiations, and that it was not collusive.

Class Certification

4. On October 8, 2015, pursuant to Federal Rule of Civil Procedure 23, the Court entered an order entitled, “Order Preliminarily Approving Class Action Settlement and Class Notice” (the “Preliminary Approval Order”).

5. The Preliminary Approval Order certified the following class solely for purposes of settlement: “All persons who from September 5, 2008 to June 25, 2015, were (1) sent unsolicited facsimile messages from or on behalf of Defendants, or (2) sent telephone facsimile messages inviting attendance at a Physicians Wellness and Weight Loss Program or advertising any other product or service which did not display a proper opt-out notice.” (the “Class”). In the Settlement Agreement, the parties agreed that this is a proper class definition solely for purposes of settlement. Excluded from the Settlement Class are (a) Defendants and their present and former officers, directors, employees, members, managers, and their successors, heirs, assigns, and legal representatives; and (b) the Court and its officers.

6. The Preliminary Approval Order also appointed Plaintiff as the Class Representative and appointed attorney Brian J. Wanca of Anderson + Wanca as Class Counsel.

Class Notice

7. Plaintiff submitted the Declaration of Andrew Barnett of Class-Settlement.com to demonstrate that the “Notice of Class Action and Proposed Settlement” (the “Notice”) was sent to the members of the Class as ordered in the Preliminary Approval Order. The Court finds that

the Notice and the process by which it was sent fully complied with the requirements of Rule 23 and due process under the Ohio and United States Constitutions, constituted the best notice practicable under the circumstances, and was due and sufficient notice to all persons entitled to notice of the settlement of this lawsuit.

Objections and Opt-Outs

8. No members of the Class filed objections to the settlement.

9. Twenty-five persons have requested exclusion and are hereby excluded from the Class and this case. A list of these persons is attached as Exhibit 1 hereto.

Class Compensation

10. Old Dominion Insurance Company (“Old Dominion”) has created a settlement fund on behalf of Defendants totaling \$7,650,000.00 (the “Settlement Fund”) and made it available to pay class member claims, to pay an incentive award to Plaintiff for serving as the Class Representative, and to pay Class Counsel’s attorneys’ fees and reasonable out-of-pocket expenses. Unclaimed monies in the Settlement Fund will revert back to Old Dominion.

11. As the Parties agreed in the Settlement Agreement, each member of the Class who submits a timely and valid Claim Form will be paid their pro rata share of the Settlement Fund, up to \$61.02, after the deductions set forth in Paragraph 10. The Settlement Administrator will cause those checks to be mailed after receiving the funds from Old Dominion. As agreed between the parties, checks issued to the class members will be void 181 days after issuance. Any money remaining from checks issued to claiming class members but not cashed within 180 days of issuance shall be returned to Old Dominion.

Awards of Incentive Award and Attorneys’ Fees and Costs

12. Pursuant to the Parties’ agreement, the Court approves and awards a \$15,000.00 incentive award to Plaintiff for serving as the class representative in this matter. In accordance

with the Settlement Agreement, Old Dominion will pay that amount on behalf of Defendants from the Settlement Fund on the Agreement's Effective Date. If payment by Defendants and Old Dominion is late, Defendants and Old Dominion shall pay interest on the amount due at the Ohio statutory interest rate of 3% per annum.

13. Pursuant to the Parties' agreement, the Court approves and awards attorney's fees to Class Counsel in the amount of \$2,550,000.00 (one third of the Settlement Fund).

Old Dominion will pay those amounts on behalf of Defendants from the Settlement Fund on the Agreement's Effective Date. If payment by Defendants and Old Dominion is late, Defendants and Old Dominion shall pay interest on the amount due at the Ohio statutory interest rate of 3% per annum.

Releases and Dismissal

14. All claims or causes of action of any kind by Plaintiff and all Class members are forever barred and released pursuant to the terms of the releases set forth in the parties' Settlement Agreement. This release does not apply to actions brought by the government.

15. This lawsuit is dismissed with prejudice as to Plaintiff and all members of the Class (except that the dismissal is without prejudice as to those persons identified above who submitted valid exclusions from the Class), and without fees or costs except as provided above.

Other Provisions

16. The Court adopts and incorporates all of the terms of the Settlement Agreement by reference here.

17. This Court retains continuing jurisdiction over this action, Plaintiff, all members of the Class, and Defendants to determine all matters relating in any way to this Final Judgment

and Order, the Preliminary Approval Order, or the Settlement Agreement, including, but not limited to, their administration, implementation, interpretation, or enforcement.

18. The Parties to the Settlement Agreement shall carry out their respective obligations thereunder.

19. The Court finds that there is no just reason to delay the enforcement of or appeal from this Final Approval Order and Judgment.

Dated: February 9, 2016

s/ David A. Katz
Honorable David A. Katz

SANDUSKY v WAGNER WELLNESS OPT-OUTS

| NAME | COMPANY | ADDRESS | CITY | STATE | ZIP | PHONE | FAX |
|-----------------------------|--|--|--------------------|-------|-------|--------------|--------------------|
| Amber Marshall | Iowa Cancer Specialists PC | 1351 W Central Park | Davenport | IA | 52804 | 563-421-1960 | 563-421-1979, 563- |
| Naomie Jacobs DDS | | 1927 Wilmington Dr Ste 202 | Fort Collins | CO | 80528 | 970-484-4850 | 970-484-2757 |
| Lyndsey Bird | Pathology Services Laboratory P.A. | 1430 West C Street | Russellville | AR | 72801 | 479-968-6781 | 479-968-3074 |
| Dr. A Monica Gliga | | 17900 Jefferson Pk #103 | Middleburg Heights | OH | 44130 | 440-243-3800 | 440-243-8651 |
| Barry Bodanza D.C. | Chiro-Injury & Wellness LLC | 9720 North Armenia Avenue Ste H | Tampa | FL | 33612 | | 813-931-7102 |
| Boshra Zakhary M.D. | | PO Box 1121 | Danville | VA | 24543 | 434-792-9110 | 434-799-6074 |
| Janice Eaton | Bluegrass Internal Medicine | 3346 Professional Park Drive | Owensboro | KY | 42303 | 270-685-1066 | 270-685-0881 |
| Christy Blanchett | Family Practice Associates | 612 Love Avenue | Tifton | GA | 31794 | 229-391-3300 | 229-388-1948 |
| Dana Ideen M.D. | | 1315 East "A" Street | Casper | WY | 82601 | 307-235-8552 | 307-235-4656 |
| M.E. Thurmond-Andlerle M.D. | | 6701 Woodward Street | Amarillo | TX | 79106 | 806-379-7732 | 806-379-6740 |
| William Strinden M.D. | Lufkin Plastic Surgery | 116 Christie Street | Lufkin | TX | 75904 | 936-632-3837 | 936-632-3837 |
| East Petersburg Family Medi | Lancaster General Health Physicians | 5665 Main Street | East Petersburg | PA | 17550 | 717-569-7011 | 717-569-8694 |
| Benjamin Ono M.D. | | 1248 Kinooole St Ste 103 | Hilo | HI | 96720 | 808-935-7137 | 866-930-3363 |
| Karen Garza | Planned Parenthood of Greater Washington & North Ida | 1117 Tieton Drive | Yakima | WA | 98902 | | 509-576-8685 |
| Nada Hana-Bachuri M.D. | Troy Family Care | 41069 Dequindre Road Ste 103 | Troy | MI | 48085 | 248-828-8900 | 248-828-8909 |
| Kenneth Gasper II DDS | Aesthetic Dentistry by Design | 8610 Explorer Dr. Ste 315 | Colorado Springs | CO | 80920 | 719-599-0700 | 719-599-8745 |
| Dr. Joseph Girgis | | 5334 Meadow Lane Court | Sheffield Village | OH | 44035 | 440-934-8999 | 440-934-8938 |
| Mark Nelson DDS | Children's Dentistry | 1551 Renaissance Towne Dr Ste 540 | Bountiful | UT | 84010 | 801-295-8322 | 801-295-7694 |
| Dr. Gerinde Ehni | Dental Arts | 703 San Juan Street Ste 207 | Pagosa Springs | CO | 81147 | 970-264-2588 | 970-264-2299 |
| Lisa Buckingham | | 10800 Parkside Drive Ste 201 | Knoxville | TN | 37934 | 865-218-6660 | 865-218-6654 |
| Annalyn Munoz-Fong | Sierra Integrative Medical Center | 9333 Double R Blvd Ste 100 | Reno | NV | 89521 | 775-828-5388 | 775-828-6588 |
| Steve Garn DDS | Adult & Child Dental | 2200 Park Ave Ste 2 | Burley | ID | 83318 | 208-878-8010 | 208-878-8253 |
| Paul Ostergaard M.D. | | 15 Mountain Avenue | Pompton Plains | NJ | 07444 | | 973-839-3132 |
| Richard Doherty Esq | Representing Comprehensive Health Center LLC | 19 West Flagler Street Biscayne Building Ste 605 | Miami | FL | 33130 | 305-371-4402 | 305-403-0664 |
| Shari VanBriesen | Affiliated Community Medical Centers | 1810 McKinney Avenue | Benson | MN | 56215 | 320-843-2030 | 320-314-1506 |

